

# TREC Advisor

Texas Real Estate Commission ★ Volume 9, No. 4 • November 1998

## TREC To Propose License Law Amendments

**T**HE MEMBERS OF THE COMMISSION have approved a series of proposed housekeeping amendments to The Real Estate License Act for submission to the 76<sup>th</sup> Legislature. The proposals were developed as part of the legislative initiatives in TREC's Strategic Plan and discussions at TREC meetings and industry gatherings. The amendments address education requirements, the recovery funds, fees, complaints, and advertising.

### *Education*

New salespersons would be required to complete an additional 30 classroom hours of core real estate courses prior to application. The total education requirement (270 hours) would be un-

changed, and salespersons would still have up to three years after original licensing to complete education requirements. TREC also would have the authority to prescribe the content of the core courses.

For licensed real estate inspectors, the number of hours of continuing education courses would increase from 4 to 8 hours per year. For licensed professional inspectors, the number would increase from 8 to 16 hours per year.

### *Recovery Funds*

TREC would be authorized to assess licensees for either the real estate recovery fund or the real estate inspection recovery fund at any time it is deter-

mined that the funds are insufficient to pay claims. Bankruptcy of the licensee/defendant would no longer bar payment to a consumer. The maximums payable from the real estate inspection recovery fund would increase from \$7,500 to \$15,000 per transaction and from \$15,000 to \$30,000 per inspector.

### *Fees*

The maximum fee for a transcript evaluation would be raised from \$15 to \$20, and inspectors requesting a new license due to a change of name, return to active status, or change in sponsoring professional inspector would pay a fee not to exceed \$20.

*Please turn to page 3.*

## Commissioners Select TREC 50th Anniversary Commemorative Logo

### *Fifty Year Observance Planned*

THE TEXAS REAL ESTATE COMMISSION (TREC) Fiftieth Anniversary will be cause for a commemorative celebration of the agency's history, as well as an opportunity to anticipate future service to the citizens of Texas. This occasion will be marked with added public awareness initiatives regarding the role of TREC in protecting consumers of real estate services, program efforts to ensure availability of capable and honest real estate service professionals, and the agency's commitment to fostering economic growth throughout the state. It is an opportunity to both celebrate and observe a successful past, as well as

express confidence in being able to carry out the agency's vital role in years to come.

Surrounding the planned observance of this occasion will be an effort to provide information regarding the history and operation of the agency. A key component of this information will be the inclusion of a distinctive commemorative design that will specifically de-



note the fiftieth anniversary event

TREC staff was recently invited and encouraged to put on their creative thinking caps and offer various thoughts, suggestions, expressions, ideas, and concepts for prospective designs. During their July meeting, Commission members reviewed a total of 16 staff entries that had been submitted individually or by persons working as a team.

*Winning Design Selected*

The winning design selected by Commissioners was created by Rick Valdes, an investigator for the agency's Enforcement Division.

TREC Commissioners recognized the selected design as a highly creative expression of the importance and role of TREC throughout the past, present, and future. In appreciation for his time, effort, and creativity, Mr. Valdes was publicly acknowledged and thanked by Commission members during their July meeting. He will also have his name included along with a framed representation of the commemorative symbol to be placed on permanent display at TREC

### **Inside this issue...**

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**MISSION :** The mission of the Texas Real Estate Commission is to assist and protect consumers of real estate services, and foster economic growth in Texas. Through its programs of education, licensing and industry regulation, the Commission ensures the availability of capable and honest real estate service providers.



## TEXAS REAL ESTATE COMMISSION

# Meeting Highlights

*September 14, 1998*

ON SEPTEMBER 14, 1998, the Texas Real Estate Commission (TREC) met and considered various proposals for possible recommendation to the state legislature during its 1999 session. Further consideration is planned for the Commission's meeting in October.

Other items for future consideration included a review of regulatory measures applicable to real estate advertising over the Internet or by other alternative electronic means. The issue of "after-the-fact" referral fees being charged by relocation firms or affinity groups was discussed for possible regulatory involvement. Commissioners will also be seeking clarification of TREC's authority to directly file injunctive actions in state court to stop any individual from engaging in real estate business practices without a license.

A decision was made to begin the process of amending 22 TAC §§ 537.11, 537.26, and 537.27, regarding revision of two temporary residential lease forms as recommended by the Broker-Lawyer Committee (see article, page 5). Another proposed rule, in the form of an amendment to 22 TAC § 535.223, will be considered for final approval in October. This proposal would eliminate use of a 14-page standard inspection report form effective in January 1999, to be replaced by a simplified five-page version adopted earlier this year.

Commissioners approved amending 22 TAC § 535.92 (see article, page 5) to allow licensees to renew active real estate licenses without interruption. A second rule change was also approved, amending 22 TAC § 535.66. It will require real estate course instructors or providers to read aloud to their students the full text of TREC's rule prohibiting discussion of examination contents or answers. In other action taken, seven payments from the real estate recovery fund, and one payment from the real estate inspection recovery fund were authorized.

As part of TREC's ongoing comprehensive rule review process, Commissioners examined a proposed repeal of 30 sections in Chapter 533 of the TREC rules governing procedures for rule making and contested cases. In their place, nine new sections with appropriate reference to the Texas Administrative Procedure Act have been proposed. Possible final action on this change could occur at the Commission's meeting in December, along with completion of a rule review for Chapter 537 pertaining to standard contract forms. A review of Chapter 534 was also discussed regarding general administration fees, with final action anticipated at the next meeting in October.

Commissioners set future meeting dates for the remainder of this year on October 26 and December 7; and on January 11, February 22, and April 12, 1999.

*October 26, 1998*

Commissioners met again on October 26, 1998. Final action was taken on eliminating a 14-page standard real estate inspection form (amendment to 22 TAC § 535.223), effective January 1, 1999. As part of the agency's overall rule review process, 22 TAC Chapter 534, relating to fees charged for returned checks and copies of public records, was re-adopted in its present form. Chapter 537, regarding standard contract forms, and proposed amendments to 22 TAC Chapter 533 on procedures for rule-making and contested cases are slated for final review and action at the Commission's December 7th meeting. A schedule for review of additional rule sections during calendar year 1999 was also adopted.

Authorization was given to prepare several other proposals for formal consideration at the December meeting including rule and statutory amendments to apply existing real estate advertising standards to Internet usage; and revision

*Continued on next page.*

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State of Texas

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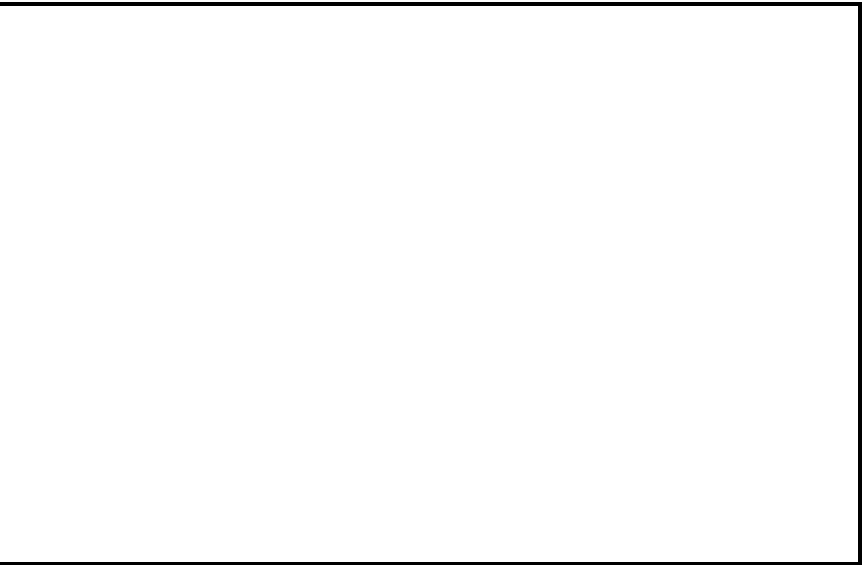
The TREC Advisor (ISSN 1047-4579) is published by the Texas Real Estate Commission (TREC) as an educational service to licensees in the state of Texas. The purpose of the newsletter is to promote a better understanding of The Real Estate License Act and to inform all licensees of changes affecting laws and practices in the real estate industry. The TREC Advisor is funded through legislative appropriations and subscriptions collected from TREC licensees. The official text of TREC rules is filed with the Office of the Secretary of State, *Texas Register*. TREC encourages reproduction of this newsletter with the appropriate acknowledgments. Subscriptions are available for \$3.00 for two years. Single issues are \$1.00. To order a subscription or a single issue write to: TREC Advisor, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. For information regarding TREC, contact:

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(512) 459-6544  
(800) 250-TREC  
<http://www.trec.state.tx.us>  
TREC Fax (512) 419-1623

## TREC Celebrates 50 Years

**W**ITH THE BEGINNING OF 1999, the Texas Real Estate Commission commemorates fifty years of service to the people of Texas. From its founding in 1949 as a separate state agency, TREC has expanded beyond the licensing of real estate brokers and salespersons to include inspectors, easement or right-of-way agents, residential service companies and timeshare developers. Over the coming months, the *TREC Advisor* will be taking a look back over those fifty years and the individuals who helped develop the real estate industry in Texas. We welcome your suggestions and your recollections of the growth of TREC and the real estate profession during the last half of the 20th century. Please send your comments and suggestions to the TREC Advisor Desk-

**PICTURED HERE is the Texas Real Estate Commission employee group setting in 1985. How many of the TREC staff can you identify?**



### TREC HISTORIC PHOTO SEARCH

AS WE CELEBRATE 50 YEARS in 1999 we will feature a selected photograph documenting a significant TREC historic moment. Please send us any relevant photographs for possible publication in one of our 1999 issues. PHOTOS should be sent to the TREC Advisor Desktop Publisher at the TREC office address. All photographs sent will be returned. Thank you in advance for your contributions.

## October Meeting Highlights continued from page 2

of 22 TAC §§ 537.11, 537.26, and 537.27, providing for two revised temporary residential lease forms prepared by the TREC Broker-Lawyer Committee. An amendment to 22 TAC §§ 535.71, 535.72, and 535.92 will be proposed in order to streamline reporting of attendance at MCE courses through the use of revised attendance rosters in place of individual completion cards that are currently used.

Development of a notice for publication on TREC's web site was discussed by Commissioners to advise that standard promulgated contract forms are intended for use by persons who have been trained and are qualified as licensed real estate professionals. Additionally, Commissioners requested information on two issues to be considered in the future: first, a staff assessment of the agency's participation within the International Association of Real Estate License Law Officials (ARELLO); and second, an opinion from the Texas Ethics Commission to

advise whether members of the Real Estate Commission may teach education courses for core or MCE credit.

Staff reports were presented regarding issuance of cease and desist orders in cases of unlicensed real estate business activities and clarification of referrals to the Attorney General's Office when necessary in such cases. Information concerning "after-the-fact" referral fees charged by relocation firms or affinity groups was also provided. No further action was taken during the meeting on these particular items. However, Commissioners expressed their intention to monitor future developments at the national level, and among other states, regarding potential regulation of "after-the-fact" referral fees and related activities.

In other matters, Commissioners agreed on specific language content for various legislative proposals that were accepted during their September meeting, including further technical amendments to clarify certain existing provisions of The Real Estate License Act (see article, page 1). Two

Real Estate Recovery Fund claims were also approved for payment, and release of a judgment held in connection with a prior payment was authorized.

## License Law Amendments continued from page 1

### Complaints

Conflicting language would be revised to clarify who may file complaints against real estate licensees, and staff could be authorized by the members of the Commission to initiate complaints against real estate licensees who fail to comply with TREC rules permitting MCE to be completed prior to renewal or issuance of a license (See related Article, page 4) or who fail to provide information requested by TREC in connection with a license renewal.

### Advertising

Language would be added to existing disciplinary provisions to clarify that TREC's authority to regulate advertising extends to advertisements placed on the Internet by real estate licensees.

# Texas Real Estate Indus'

## Certification Required For Lead Inspections

TREC LICENSED REAL ESTATE INSPECTORS are reminded that before conducting a lead inspection, certification must first be obtained from the Texas Department of Health under the state's Environmental Lead Program.

A class action lawsuit was recently filed against the City of Houston and numerous banks and mortgage companies for, among other things, using uncertified inspectors to conduct lead inspections. It also may be a violation of section 23(l)(2) of The Real Estate License Act as "performing in a negligent or incompetent manner" for a TREC licensed inspector to perform a lead inspection without proper certification from the Texas Department of Health.

The Department of Health has recently proposed administrative penalties against several individuals for performing lead inspections without having a license to do so in violation of department rules. Although there are no final orders on these matters, the individuals may be fined from \$1000 to \$5000 for their actions. For information regarding certification for lead inspections, contact the Environmental Lead Program at 512-834-6600 or 1-800-572-5548.

**IT IS RECOMMENDED** that licensees take the time to re-read the provisions of the Texas Real Estate License Act and Commission Rules. The Commission is in the process of reviewing and updating its rules, and things may have changed somewhat since you last looked at them. The Act and Rules are available at the TREC web site at [www.trec.state.tx.us](http://www.trec.state.tx.us).

## May A Licensed Inspector Comment On Wood-Destroying Insects Or Damage?

THE STRUCTURAL PEST CONTROL BOARD (SPCB) has clarified the extent to which inspectors licensed by TREC, but not by the SPCB, may comment on evidence of wood-destroying insects or damage by wood-destroying insects. Inspectors have been concerned that a failure to report a possible infestation could lead to civil liability to a buyer, or that failure to comment on damage to the home would violate TREC standards of practice.

By a letter dated October 6, 1998, the SPCB permits the following statements to be used: "Evidence of wood destroying insects"; "active wood destroying insects"; "visual evidence of damage to specific wood members"; "observed evidence of wood destroying insects"; and "observed damage by wood destroying insects". Using these terms, the inspector may state what has been seen without making specific statements identifying what insect evidence or type of damage may be involved. The following statement must accompany one or all of the above statements: "It is recommended that a licensed structural pest control company performs and makes recommendations as to the activity or evidence of wood destroying insects."

For further information, contact the SPCB at 1106 Clayton Lane, Suite 100 LW, Austin, TX 78723-1066; telephone (512) 451-7200; or at <http://www.spcb.capnet.state.tx.us>.

## Rule Reviews Continue 1999 Schedule Announce

TREC HAS COMPLETED REVIEWS of two chapters of its rules under the rule review plan approved in May. Each review is conducted to determine whether the rule should be readopted if the original reason for adopting the rule still exists, or whether the rule should be amended or repealed. Chapter 531, concerning canons of ethics for real estate licensees, and Chapter 534, concerning fees for returned checks and charges for public records, have been readopted with no changes. As part of the review of Chapter 533, concerning procedures in rule-making and contested cases, TREC has proposed a shortened series of rules to replace the current chapter. Comments are now being considered on Chapter 537, which concerns the use and reproduction of standard contract forms.

TREC has announced its schedule for rule reviews to be conducted in 1999. The schedule adopted by the members of the Commission at the October 26 meeting begins the review of Chapter 541, concerning criminal offense guidelines, at the TREC meeting scheduled for January 11, 1999. The review of approximately half of Chapter 535, concerning provisions of The Real Estate License Act, will begin at the meeting scheduled for February 22 and continue for the next four meetings. Subjects addressed by this part of Chapter 535 include the activities for which a real estate license is required; definitions; exemptions; applications; education, experience and examination requirements; accredited schools; and mandatory continuing education (MCE) providers.



# ry News

## Revised Lease Forms Proposed

TREC HAS PROPOSED to adopt revised versions of the temporary residential lease forms developed by the Texas Real Estate Broker-Lawyer Committee. These forms are used when a buyer or seller occupies the property for no more than 90 days prior to or after the closing of a sale. At the TREC meeting on September 14, 1998, Commission members voted to propose amendments to Chapter 537 of TREC rules, replacing the current Seller's Temporary Residential Lease (TREC No. 15-2) and the Buyer's Temporary Residential Lease (TREC No. 16-2). Final action to adopt the forms could come as early as the TREC meeting scheduled for December 7, 1998.

The principal change to the forms is the elimination of a provision relating to security devices such as dead-bolt locks. The Texas Property Code now contains an exemption from those provisions for temporary leases of not more than 90 days. A specific waiver also has been provided concerning the landlord's duty to inspect and install smoke detectors. Rentals would be paid in full at the time of the commencement of the lease, and there would be no provision for additional earnest money (addressed in the main contract) or collection of advance hold-over rental from the seller-tenant. The forms also have been rewritten to be consistent in style and language with the newer TREC forms.

Copies of the forms are available on the TREC web site and by mail. Comments on the forms are invited and may be sent to the Office of General Counsel, TREC, P.O. Box 12188, Austin, Texas 78711-2188.

## How To Save \$200 On Each License Renewal

IS YOUR LICENSE ACTIVE OR INACTIVE? Have you completed the required hours of MCE to renew your license? What will happen to salespersons that you sponsor if you don't get your MCE on time? The answers to these questions are going to become extremely important to you in the years to come.

At its September meeting the Commission changed a rule that will affect each licensee subject to MCE. The text of this rule can be found on the TREC web site. The rule applies to renewals of licenses expiring on or after March 31, 1999.

Under the new rule, when an active license (subject to MCE) is renewed, the license remains active without regard to whether the licensee completed the required MCE hours. However, if the licensee does not complete the MCE by the expiration date of the license being renewed, the licensee will have to pay a \$200 fee and will still be required to complete the MCE hours. Failure to pay the fee and complete the required MCE is grounds for disciplinary action.

Most licensees are getting their MCE hours taken care of early and renewing their licenses without a hitch. However some licensees are waiting until the last minute to take care of the requirement which casts some doubt on the status of a license. Furthermore, some brokers are not fulfilling the requirement and therefore their salespersons are being made inactive due to the brokers' inability to sponsor. The new rule takes care of these situations by keeping the license status active.

How to save \$200 on a renewal: By completing 15 hours (6 of which must be in legal topics) of MCE courses during the term of a license, a salesperson or broker is certain to have fulfilled the education requirement to renew a license subject to MCE. Inactive licenses should clearly request an inactive status on their renewal notice.

## Commission Announces Additional Examination Sites

THE COMMISSION NOW OFFERS the licensing examination at 20 locations around the state. The examinations are available in Abilene, Amarillo, Austin, Beaumont, Bossier City, La., Corpus Christi, Arlington, Bedford, Dallas, Mesquite, El Paso, Clear Lake, Kingwood, Sugar Land, Lubbock, Midland, New Braunfels, San Antonio, Tyler and Waco. Examinations are also available out of state by calling the testing service number given on the Candidate Information Brochure (CIB) sent to all applicants eligible to take the examination. In addition to the CIB information about the examination process can be found on the TREC web site.

## Single Report Form Required Beginning January 1, 1999

ON OCTOBER 26, 1998, THE MEMBERS of the Commission voted to amend TREC rules relating to the report forms used by licensed inspectors. Beginning January 1, 1999, the rule, 22 TAC §535.223, will require inspectors to use a single inspection report form (REI 7A-0). Under the prior rule, inspectors could use either of two comprehensive report forms and a series of shorter report forms relating to optional systems such as swimming pools and gas lines. Form REI 7A-0 has been in use since it was approved by TREC on June 15, 1998, and it has widely replaced the original 14-page inspection report form. The amendment to the rule also clarified that the inspector is required to provide a copy of the completed report within a reasonable period of time to the person for whom the inspection is performed. Report form REI 7A-0 is available by mail from TREC and may also be obtained from the TREC web site. Prior to use of the form becoming mandatory, the members of the Commission also approved informational materials about the form (see "Questions and Answers Regarding Use of the New Inspection Report Form", Advisor, Volume 9, No. 3).

## Disciplinary Actions As of October 1998

**Austin Institute of Real Estate (Austin) License #990001256** Agreed reprimand of proprietary school, entered August 6, 1998; agreed administrative penalty entered August 6, 1998 presenting a core real estate course with less than 30 classroom hours of instruction, specifically, holding the course without an instructor for the entire first day of the course, in violation of Sections 535.66(o), 535.66(j) and 535.66(ss)(6) of the TREC rules

**Bailey, Tunita Rena (De Soto) license #379054** Agreed 6-month probated suspension of broker license, effective August 19, 1998; agreed administrative penalty entered August 13, 1998; broker forged a Commission document on Commission letterhead in the context of a lease transaction in her own name, thereby violating Section 15(a)(3) of The Real Estate License Act

**Bindon, James A. (El Paso); license #157474** Agreed 30-day suspension of broker license probated for 6 months, effective August 10, 1998; failing to enforce terms of residential lease without authority to do so from the property owners in violation of Section 15(a)(6)(W) of The Real Estate License Act

**Bridges, Michael Lynn (Corpus Christi); license #207023** Agreed reprimand of broker license, entered August 11, 1998; Agreed administrative penalty entered August 11, 1998; failing to properly identify the advertiser as a

licensed real estate broker in violation of Section 15(a)(6)(P) of the Texas Real Estate License Act failing to file assumed name certificates with the Commission in violation of Section 535.154 of the TREC rules

**Chitsey, Ron (Leander); license #3263** Agreed administrative penalty of real estate inspector license, effective September 17, 1998; failing to indicate in his inspection report if the inspected parts, components, or systems were not functioning or in need of repair as required by 22 TAC Section 535.222(b) of the Texas Real Estate Commission Rules; inspector does not admit and specifically denies that he violated 22 TAC Section 535.222(b)

**Finch, Robert Lee, Jr. (Houston); license #269178** Agreed 30-day probated revocation of broker license, effective August 1, 1998; failing within a reasonable time to properly account for monies belonging to others while engaged in property management in violation of Section 15(a)(6)(E) of The Real Estate License Act

**Greater Houston Realty, Inc. (Houston); license #406481** Agreed 30-day probated revocation of broker license, effective August 1, 1998; failing within a reasonable time to properly account for monies belonging to others while engaged in property management in violation of Section 15(a)(6)(E) of The Real Estate License Act

**Hosier, E. Dean (Carrollton); license #467** Agreed reprimand of real estate inspector license, entered September 22, 1998 Agreed administrative penalty entered September 22, 1998; failing to investigate a sag in the ceiling over the den area of a property he inspected for evidence of water penetration and claiming it was merely cosmetic in nature in violation of Sections 535.222(e)(2)(B)(i)(I) and 535.222(e)(E)(i)(IV) of the TREC rules

**Hunter, William (Austin) license**

**#310514** Revocation of broker license, effective September 28, 1998; payment from the Real Estate Recovery Fund by the Texas Real Estate Commission toward satisfaction of a judgment against this licensed real estate broker in violation of Section 8(i) of The Real Estate License Act

**Jankowiak, Gloria June (Austin) license #436955** 360-day suspension of salesperson license, effective August 31, 1998; failing to comply with terms and conditions of agreed order

**Ramos, Manuel (Laredo); license #305838** Agreed 6-month suspension of broker license probated for 1-year, effective September 14, 1998; failure to obtain a real estate broker license for his corporation that engaged in real estate brokerage in violation of Section 15(a)(6)(F) and Section 15(a)(6)(S) of the Texas Real Estate License Act; failure to file his assumed name certificate with the Commission in violation of Section 535.154 (b) of the TREC rules; failure to provide documents and records in his possession concerning a real estate transaction upon demand by the Commission in violation of Section 15(a)(7) of The Real Estate License Act

**Raudry, Hector Richard (El Paso) license #310859** Agreed 5 year probated suspension of broker license, effective August 7, 1998; criminal conviction for felony offense of conspiracy to distribute marijuana in violation of Section 4(a) of Article 6252-13c, Texas Civil Statutes

**Robinson, Tammy Lynne (Texarkana); license #426513** Agreed reprimand of salesperson license entered August 13, 1998; failing to timely provide information requested by the Commission in connection with a renewal application, in violation of Section 535.91(a) of the TREC rules and Section 15B(b) of The Real Estate License Act

**Wilson, Diane Elaine (McAllen); license #424608** Agreed 6-month sus-

Name	Lic. Exp. Date
Company	
Street	
City, State	



AS A SERVICE to our licensed subscription holders, we have included your license expiration date in the upper right hand

## Internet Advertising

**A**T ITS JULY 27TH MEETING, THE COMMISSION TOOK UNDER consideration several issues regarding Internet advertising and solicitation by real estate licensees. At that meeting, the Commission decided to review recent developments with respect to real estate advertising on the Internet, and to work towards implementing a policy on the regulation of such advertising and solicitation. The Commission asked the staff to request input from consumers, the general public and the real estate industry, and to prepare recommendations for further action at its October meeting.

IN RESPONSE, the staff first assembled reports from other jurisdiction's real estate regulatory agencies regarding Internet advertising issues. In addition, notice was placed in the *TREC Advisor* and on the TREC web site requesting additional input. Georgia, New York, Kentucky and Florida acknowledged some of the same concerns raised in Texas about use of the Internet to advertise and solicit clients, including misrepresentation, deception, incomplete or no compliance with required disclosure in individual web pages, stale web sites, and use of names other than the one in which the advertiser was licensed.

The Commission reviewed the interim report at its September 14<sup>th</sup> meeting. It was noted that there had been no formal response from the general public or the real estate industry regarding the development of Internet advertising regulations in Texas.

The Commission was provided a final report for review at its October 26<sup>th</sup> meet-

...some concerns raised about Internet advertising include misrepresentation, deception, incomplete or no compliance with required disclosure in individual web pages, and stale web sites...



ing. The report included information provided by telephone interview from 30 states. California and New Jersey reported the recent adoption of Internet advertising regulations, and four states reported Internet advertising rules at various stages of review.

TREC staff made two recommenda-

tions to directly address the issue of Internet advertising and solicitation. First, that the Commission request that the Legislature amend the statutory provisions addressing real estate advertising to expressly include a reference to the Internet to clarify that existing advertising standards apply to such communications. Second, that the Commission amend the current advertising rules to include Internet related advertising. Furthermore, it was recommended that the Commission promulgate new rules that define the parameters of Internet advertising that are consistent with current advertising rules already defined for other communication media. The new rules, however, would be specifically associated with advertising on the Internet and electronic bulletin boards, or soliciting consumers via e-mail.

Staff also recommended that the Commission continue to assess the impact of Internet technology on the real estate industry as the technology develops and changes. The Commission adopted the staff recommendations and specifically directed the staff to develop language amending the statute to include the term "Internet" in the provisions pertaining to advertising, and to amend the advertising rules to specifically include advertising and solicitation via the Internet and by other electronic means, including e-mail and electronic bulletin board services.

## Disciplinary Actions continued from page 6

pension of broker license probated for 1-year, effective September 30, 1998; agreed administrative penalty entered September 30, 1998 commingling money belonging to others with her own funds by depositing the funds into her operating account in violation of Section 15(a)(6)(E) of The Real Estate License Act; failing within a reasonable time to account for or remit money which came into her possession and belonged to others in violation of Section 15(a)(6)(E) of the Texas Real Estate License Act; failure to maintain adequate supervision over her office staff with respect to the handling of other funds and failure to

Two New Training Videos Available From Real Estate Center

If Siskel & Ebert reviewed our videos,  
they'd give them...  
**Two Thumbs Up!**



The Real Estate Center at Texas A&M University

has produced two new videotapes which should be of interest to real estate licensees.

Both can be obtained by calling the Center at 1-800-244-2144.

"How To Use Paragraph 7(D)1" is a 17-minute dramatic presentation on the "option clause" in the promulgated residential contract forms. Developed in cooperation with the Texas Real Estate Commission, it is designed to inform real estate licensees and the public of the advantages and effective use of the option clause. The video was the recipient of an "Excellence in Education" award for 1998 from the Association of Real Estate License Law Officials. It is available for \$10, plus sales tax.

"Careers to Real Estate - Five Paths to Success" outlines the various opportunities available to those who seek meaningful employment in the real estate business. This video helps explain to the public - and especially those making a career decision - the type of activities undertaken by a real estate professional. This video can be obtained at a cost of \$19.95 plus sales tax.

**Order yours today!**

## Dealing with Multiple Offers

ONE COMMONLY ASKED QUESTION to the Enforcement Division involves a listing agent's duty to notify the seller of multiple offers. TREC rule 535.156(a) specifically requires a licensee to "convey to the principal all known information which would affect the principal's decision on whether or not to accept or reject offers." Subsection 535.156(c) further provides that "a licensee has an affirmative duty to keep the principal informed at all times of significant information applicable to the transaction or transactions in which the licensee is acting as agent for the principal." Thus the rules require the listing agent to submit all written purchase offers to the seller until a buyer and the seller have a fully executed contract.

Although the general rule is that all offers must be communicated to the seller by the listing agent, there are a few exceptions. These include instances where the seller has specifically instructed the listing broker not to bring the seller any offers below a certain price, or situations in which a binding contract has been executed between a seller and buyer. In the latter situation, Rule 535.156(a) provides that "the licensee shall have no duty to submit offers to the principal after the principal has accepted an offer." Furthermore, the listing agent is prohibited from sharing any information about one buyer's offer with another buyer. Note, however, that in the end, it is always the sellers' decision whether to accept or reject offers they receive. The listing should address the broker's duty regarding back-up offers so as to avoid confusion on the issue. Also, trade association rules may affect the brokers duty.

## File Early and Avoid Problems

THE NUMBER ONE PROBLEM LICENSEES have filing paperwork with the Commission is missing deadlines. Somehow licensees believe if they "get close" then TREC will "let them in". However, this is not the case. The Real Estate License Act and rules of the Commission set out the procedures by which business is transacted and they must be followed by TREC staff and by licensees.

**If you mail your renewal application early, there is time to correct most problems.**

When renewing a license, do so early in the 90 day window. If you mail your renewal application early, there is time to correct most problems. Problems that arise come in all shapes and sizes. For example, check not signed, check not made out to TREC, check made out for the wrong amount, salesperson annual education (SAE) completion documentation not provided with (or prior to) the application for renewal.

Each of these examples will cause the application for renewal to be returned to the licensee. When this happens it will take more time to get the application for renewal filed. If a licensee waited until the last day to file the application to renew and it gets returned for one of the above mentioned reasons, then the licensee will be required to file a late renewal application, perhaps resulting in a lapse in licensure. File early and avoid additional delays and fees.

## Employee of the Quarter

TREC IS PROUD TO ANNOUNCE that Keith Denison recently received the Employee of the Quarter award for June 1998 - August 1998.

Keith, who works in the Information Services Division, began employment with TREC on July 8, 1996. His primary responsibilities are construction and support of TREC personal computer network. He exemplifies the term *team player* and assists employees in all divisions with computer and network problems.

Keith is a valued member of the Information Services team. His enthusiasm makes him an asset to the Commission.

*TREC commends Keith's dedication and is pleased to recognize his performance.*

## TEXAS REAL ESTATE COMMISSION Calendar of Events

### Texas Real Estate Commission Meetings

December 7, 1998 – Austin  
January 11, 1999 – Austin  
February 22, 1999 – Austin  
April 12, 1999 – Austin

### Broker Lawyer Meetings

February 11, 12, 1999 – Austin  
April 8, 9, 1999 – Austin  
June 12, 13, 1999 – Austin

Website: <http://www.trec.state.tx.us>  
TREC Fax: (512) 419-1623  
Phone: (800) 250-TREC (8732) or  
(512) 459-6544